

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
: Criminal No. \_\_\_\_\_  
:  
v. : Date Filed: \_\_\_\_\_  
:  
JAMES O. MARSH : Violations: 18 U.S.C. § 1365  
: (c) (Tampering with a  
: consumer product - 3 counts)  
: 18 U.S.C. § 875(d) (Using  
: interstate communication to  
: transmit a threat - 2 counts)  
: 18 U.S.C. § 876(d) (Mailing  
: threatening communications  
: - 1 count)

I N D I C T M E N T

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment:

1. Defendant James O. Marsh resided at 7 Mohawk Street, Allentown, Pennsylvania.
2. Catelli Brothers, Inc. ("Catelli Brothers") was a Pennsylvania corporation whose corporate offices were located in Salisbury, Pennsylvania, and meat packing plants located in New Jersey. Catelli Brothers is a family owned business which provides meat processing, packing, and distribution services to commercial and retail customers

throughout the eastern United States.

3. QC Laboratories was an environmental testing firm employed by Catelli Brothers for the purpose of making periodic environmental inspections at its plants.

4. The Food Safety and Inspection Service (FSIS), was a public health regulatory agency of the U.S. Department of Agriculture (USDA).

5. FSIS protected the public health by regulating meat, including all raw beef, pork, lamb, chicken, and turkey, as well as processed products, including hams, sausage, soups, stews, pizzas, and frozen dinners.

6. On or about February 11, 2002, Catelli Brothers hired defendant JAMES O. MARSH as its Director of Quality Assurance. Catelli Brothers's decision to hire the defendant was based, in part, on the defendant's resume in which the defendant falsely claimed to have earned a B.S. degree in Bio-Chemistry from Moravian College in 1994 and a M.S. Degree in Organic Chemistry from Lehigh University in 1997.

7. In his capacity as the Director of Quality

Assurance, defendant JAMES O. MARSH was responsible for the overall quality control of meat production at Catelli Brothers's plants to insure compliance by the company with applicable rules and regulations of the USDA.

8. On or about July 5, 2002, approximately six months after JAMES O. MARSH was hired, Catelli Brothers fired defendant MARSH for unsatisfactory job performance.

9. Shortly after he was fired, defendant JAMES O. MARSH attempted to extort money from and blackmail Catelli Brothers by attempting to cause a recall of Catelli Brothers' meat products which had been sold in interstate commerce. Such a recall, had it occurred, could have caused Catelli Brothers millions of dollars in losses and jeopardized its ability to continue as a viable concern.

10. As part of his plan to blackmail and extort money from Catelli Brothers, defendant JAMES O. MARSH acquired, under false pretenses, copies of QC Laboratories inspection reports ("lab reports") and altered the lab reports to reflect that QC Laboratories had acquired evidence of listeria monocytogenes and salmonella pathogens in two samples of veal and one sample of lamb meat products

on June 2, 2002, when in fact QC Laboratories had not conducted such tests and had not made such findings.

11. In furtherance of his plan, defendant JAMES O. MARSH hired a law firm, known to the grand jury as "C&P," to draft and file a civil complaint seeking unspecified damages from Catelli Brothers on the false grounds that Marsh was a "whistle blower" and had been fired by Catelli Brothers in violation of New Jersey's Conscientious Employee Protection Act. C&P, without knowledge that the defendant's claims were false, filed the lawsuit and sent copies of the civil complaint to Catelli Brothers by United States mail and by facsimile transmission.

12. In addition to causing the bogus lawsuit to be filed and sent, defendant JAMES O. MARSH sent e-mail messages to Catelli Brothers which also threatened to injure Catelli Brothers' reputation.

13. On or about July 5, 2002, defendant JAMES O. MARSH sent Catelli Brothers an e-mail message which stated, in part, the following: (a) "this is one issue that has cost the bigger companies millions and bad publicity;" (b) "it is one I have prepared for all of my life and one that I

cannot afford to lose"; (c) "if I do not get my business taken care on by Friday, regardless of whom Tony [Catelli] knows, the following will happen, somehow in a misterious [sic] manner the food and safety office of the USDA will have records of Catelli brothers products and environment[sic] testing positive for pathogens;" and (d) "I know it is impossible for the company to have a reasonable recall not to mention the economic impact."

14. On or about July 24, 2002, defendant JAMES O. MARSH sent Catelli Brothers an e-mail message which stated, in part, the following: (a) "[m]ost importantly, hope to give Catelli brothers a PR like they have never had before and to expose the ills for what it is"; (b) "if ConAgra foods could have this mess of a recall of 19 million pounds and still mounting, it could happen there in a flash;" and (c) "[r]emember folks, it only takes one incident . . . the different governmental bodies just made a friend and I intend to sing louder than a choir body or Ralph Natale, if you know what I mean."

15. On or about August 14, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES O. MARSH

knowingly communicated false information that a consumer product had been tainted when the product and the results of the communication affected interstate and foreign commerce, namely, that listeria monocytogenes and salmonella pathogens had been found in a Catelli Brothers' meat product marked by identification number L890807-11, which tainting, had it actually occurred, would have created risk of death and bodily injury to another person.

In violation of Title 18, United States Code,  
Section 1365(c).

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 through 14 of Count One are incorporated by reference here.

2. On or about August 14, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES O. MARSH

knowingly communicated false information that a consumer product had been tainted when the product and the results of the communication affected interstate and foreign commerce, namely, that listeria monocytogenes and salmonella pathogens had been found in a Catelli Brothers' meat product marked by identification number L890807-12, which tainting, had it actually occurred, would have created risk of death and bodily injury to another person.

In violation of Title 18, United States Code, Section 1365(c).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 through 14 of Count One are incorporated by reference here.

2. On or about August 14, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES O. MARSH

knowingly communicated false information that a consumer product had been tainted when the product and the results of the communication affected interstate and foreign commerce, namely, that listeria monocytogenes and salmonella pathogens had been found in a Catelli Brothers' meat product marked by identification number L890907-6, which tainting, had it actually occurred, would have created risk of death and bodily injury to another person.

In violation of Title 18, United States Code, Section 1365(c).



COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated by reference here.

2. On or about July 5, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES O. MARSH,

with the intent to extort from a person, firm and corporation money and other things of value, transmitted in interstate commerce, that is, through Virginia to New Jersey, an e-mail communication to Catelli Brothers which contained a threat to injure that company's property and reputation, namely, threatening to cause negative publicity for Catelli Brothers regarding the quality of their meat products sold in interstate commerce.

In violation of Title 18, United States Code, Section 875(d).

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated by reference here.

2. On or about July 24, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES O. MARSH,

with the intent to extort a person, firm and corporation, money and other things of value, transmitted in interstate commerce, that is, through Virginia to New Jersey, an e-mail communication to Catelli Brothers which contained a threat to injure that company's property and reputation, namely, threatening to cause negative publicity for Catelli Brothers regarding the quality of their meat products sold.

In violation of Title 18, United States Code, Section 875(d).

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 though 14 of Count One are incorporated by reference here.

2. On or about August 14, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES O. MARSH,

with intent to extort money from Catelli Brothers, knowingly caused to be delivered by the Postal Service a written communication addressed to Catelli Brothers containing a threat to injure the property and reputation of that company by means of a lawsuit which publicly and falsely accused Catelli Brothers of failing to correct health related issues arising from their production and processing of meat products for sale to the general public.

In violation of Title 18, United States Code, Section 876(a).

A TRUE BILL:

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
PATRICK L. MEEHAN  
United States Attorney